



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 046-06

1617 & 1621 ANACAPA STREET

MODIFICATIONS, CONDITIONAL USE PERMIT AND DEVELOPMENT PLAN

NOVEMBER 9, 2006

APPLICATION OF KEVIN DUMAIN OF DESIGNARC, ARCHITECT FOR MARCELA CACERES, 1617 & 1621 ANACAPA STREET, APN 027-182-008 & -009, R-3/R-O, LIMITED MULTIPLE FAMILY RESIDENCE AND RESTRICTED OFFICE ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL, TWELVE UNITS/ACRE (MST2005-00409)

The project consists of a proposal to merge two existing lots and expand the existing 1,334 square foot Bright Start day care center currently located at 1617 Anacapa St. Enrollment would increase from 27 to 60 children. The existing 1,245 square foot apartment located on the first floor of 1621 Anacapa Street would be remodeled to accommodate the expanded day care center and the two second floor apartments would remain. The two required residential parking spaces would be provided onsite. Seven of the eleven parking spaces required for the day care center would be provided through an off-site parking agreement with First Church of Christ, Scientist. Four on street parking spaces along the frontage of the site would be green striped to provide for the loading and unloading of passengers. A new eight foot high acoustical sound fence is proposed along the perimeter of the site.

The discretionary applications required for this project are:

1. Modification to allow encroachments into the required setbacks (SBMC§28.21.085);
2. Modification to allow a parking space to encroach into the required front yard setback (SBMC§28.90.001.9);
3. Modification to allow less than the required number of commercial parking spaces (SBMC§28.90.100.J.18.a);
4. Conditional Use Permit to allow the expansion of the existing day care center (SBMC§28.94.030.G); and
5. Development Plan Approval for 1,245 square feet (net) of new nonresidential square footage (SBMC§28.87.300).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303 (conversion of small structures).

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 13 people appeared to speak in favor of the application, and 2 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, November 9, 2006
2. Site Plans
3. Correspondence received in support of the project:
 - a. Rachel Arnold
 - b. Liliana Hensel
 - c. Monika Bernardi
 - d. Tara Broucqsault
 - e. Joseph Gallardo
 - f. Anne Wasmuth
 - g. Larry & Tina Kreider
 - h. Mari Mender
 - i. Eileen Monahan, First 5 Santa Barbara County, Office of Early Care & Education
 - j. Andy Norris & Sally Sheridan
 - k. William Makler
 - l. Maria Valencia
 - m. Tanny Keeler, The Hoffmann House
 - n. Andrew & Danielle Spitz
 - o. A petition in support signed by 12 people
4. Correspondence received in opposition to the project:
 - a. Patty McBratney
 - b. Max & Shelly Ruston
 - c. John La Puma
 - d. William & Helga Olkowski
 - e. J.B. & Mary Kaye Micallef
 - f. Louis Hagler M.D.
 - g. Diane Siers
 - h. Jeanne Ullom

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

I. Approved the subject application, making the following findings and determinations:

A. **Yard Modifications (SBMC§28.90.001.9)**

The modification to allow a parking space to encroach into the required front yard setback is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on a lot. The modification to allow the existing building and carport to encroach into the required setbacks for non-residential buildings is consistent with the purposes and intent of the Zoning Ordinance and is necessary to prevent unreasonable hardship.

B. **Parking Modification (SBMC§28.90.100.J.18.a)**

The modification to allow less than the required number of commercial parking spaces is denied because it is inconsistent with the purposes and intent of the Zoning Ordinance and may cause an increase in the demand for parking space or loading space in the immediate area.

C. **Conditional Use Permit (SBMC §28.94.030.G)**

1. The use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan;
2. The uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved;
3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided;
4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time;
5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. The Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private, public, or quasi-public purposes and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purpose set forth in this title; and
6. The proposal is in compliance with any additional specific requirements for a conditional use permit. The Planning Commission may impose such other conditions and restrictions upon the proposed use consistent with the Comprehensive General Plan and may require security to assure satisfactory performance of all conditions and restrictions.

D. **Development Plan (SBMC §28.87.300)**

1. The proposed development complies with all provisions of the Zoning Ordinance;
2. The proposed development is consistent with the principles of sound community planning;
3. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size, bulk or scale of the development will be compatible with the neighborhood;
4. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock;
5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources;
6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic; and
7. Resources will be available and traffic improvements will be in place at the time of project occupancy.

II. Said approval is subject to the following conditions:

In consideration of the project approval granted by the Planning Commission and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession and enjoyment of the Real Property:

A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute a written instrument which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health or damage to the Real Property or any adjoining property.
2. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.
3. **Approved Development.** The development of the Real Property approved by the Planning Commission on November 9, 2006 is limited to the expansion of the Bright Start Child Development Center to a maximum enrollment of 60 children through the merger of APN 027-182-008 (1621 Anacapa St.) and APN

027-182-009 (1617 Anacapa St.) and the conversion of the existing 1,245 square foot apartment located on the first floor of 1621 Anacapa Street to non-residential square footage, 11 parking spaces provided off-site via a reciprocal parking agreement, and the improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.

4. **Hours of Operation.** The hours of operation shall be limited to 7:30 am to 6:00 pm, Monday through Friday.
 5. **Special Events.** Special events occurring after hours shall be limited to one event per year.
 6. **Conditional Use Permit Review.** The applicant shall submit a request for Planning Commission review of the Conditional Use Permit two years after the date of approval.
 7. **Street Tree Protection.** The street trees within the City right of way shall be preserved and protected.
 8. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance and most currently adopted Energy Code. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
- B. **Public Works Submittal Prior to Permits.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to permits for the project:
1. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. Said agreement will be prepared by Engineering Division Staff for the Owner's signature.
 2. **Public Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the property frontage on Anacapa Street. As determined by the Public Works Department, the improvements shall include removal of trip hazard in public right of way, removal of one existing driveway approach and replace curb cut with new curb, gutter and parkway, preserve and/or reset survey monuments and contractor stamps, construct on-site biofilter/swale. Existing private sewer lateral(s) serving the property shall be repaired before new dwelling(s) is occupied. Any existing sewer lateral(s) identified to be abandoned, shall be disconnected at the sewer mainline connection. A licensed plumber shall verify if the property requires a backwater valve. If existing lateral already has a backwater valve, then it shall be inspected. The building plans shall be prepared by a registered civil engineer or licensed architect.

3. **Voluntary Merger Required.** The Real Property known as APN 027-182-008 and APN 027-182-009 shall be merged into one lot, following the procedure in Santa Barbara Municipal Code Chapter 27.30.
- C. **Community Development Requirements Prior to Building or Public Works Permit Application/Issuance.** The following shall be finalized prior to, and/or submitted with, the application for any Building or Public Works permit:
1. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions and Conditions of Approval. Submit a copy of the notice to the Planning Division.
 2. **Off-Site Parking Agreement.** The Owner shall provide an off-site parking agreement with the First Church of Christ, Scientist located at 120 E. Valerio Street that provides for eleven parking spaces. The agreement shall remain in force for as long as the child care facility is in operation.
 3. **Noise Study.** The applicant shall submit a noise study that provides recommendations regarding reducing the noise impact on adjacent uses. The recommendations shall be reviewed by the Architectural Board of Review prior to implementation. If a recommendation includes a fence that is greater than allowed by the Zoning Ordinance, a fence height modification shall be reviewed by the Staff Hearing Officer.
- D. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Architectural Board of Review.
 2. **Water-Conserving Fixtures.** All plumbing fixtures shall be water-conserving devices in new construction, subject to the approval of the Water Resources Management Staff.
 3. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner

Date

Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

E. Construction Implementation Requirements. All of these construction requirements shall be carried out in the field for the duration of the project construction.

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of containers for collection of demolition/construction materials.
2. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
3. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

New Year's Day	January 1 st *
Martin Luther King's Birthday.....	3 rd Monday in January
Presidents' Day.....	3 rd Monday in February
Memorial Day.....	Last Monday in May
Independence Day	July 4 th *
Labor Day.....	1 st Monday in September
Thanksgiving Day	4 th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25 th *

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include

what the work includes, the reason for the work, the duration of the proposed work and a contact number.

4. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
 - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.
 - b. Storage or staging of construction materials and equipment within the public right-of-way is prohibited.
 5. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
 6. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number, work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
 7. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
 8. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
- F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements caused by construction for curbs, gutters, sidewalks, etc., subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Complete public improvements, as shown in the improvement/building plans, including utility undergrounding and installation of street trees.
 3. **Backflow Device.** Provide an approved backflow device placed on the property side of consumer's service pursuant to Santa Barbara Municipal Code Section 14.20.120.

- G. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses and costs of that independent defense.

NOTICE OF MODIFICATION, CONDITIONAL USE PERMIT, AND DEVELOPMENT PLAN TIME LIMITS:

The Modifications, Conditional Use Permit and Development Plan approvals shall expire four (4) years from the date of approval unless:

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.
2. A time extension is granted by the Planning Commission for one (1) year prior to the expiration date of the approval, only if it is found that there is due diligence to implement and complete the proposed project. No more than one (1) time extension may be granted.

This motion was passed and adopted on the 9th day of November, 2006 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Myers, Larson)

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.

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1617 & 1621 ANACAPA STREET
NOVEMBER 9, 2006
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Kathleen Goo
Kathleen Goo, Acting Planning Commission Secretary

2/8/07
Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.